



# Marijuana Tax Equity Act of 2013

## H.R. \_\_\_\_\_

Congressman Earl Blumenauer ■ Third District of Oregon ■ [www.blumenauer.house.gov](http://www.blumenauer.house.gov)

*This legislation creates a federal excise tax on the sales on marijuana in states where it is legal for either medicinal or recreational use, as well as occupational taxes for those engaged in the industry. It establishes civil and criminal penalties for those who do not comply and requires the IRS to produce periodic studies of the marijuana industry and issue recommendations for Congress.*

### **Background**

Slightly more than 106 million people live in a state or local jurisdiction that has decided that some aspect of marijuana use should be legally permitted. Eighteen states plus DC currently allow for medical marijuana and two states, Colorado and Washington, recently legalized the recreational use of small amounts of marijuana.

National trends reflect those state efforts. More than 40 percent of Americans over the age of 12 have tried marijuana at least once and public opinion research reveals nearly half of the U.S. population supports legalization. Yet even as states and local governments have taken the lead in finding legal arrangements for marijuana, millions of people have been caught in the justice system for marijuana offenses and more than 660,000 people were arrested for marijuana possession in 2011. At the same time, the federal government spends approximately \$5.5 billion per year on incarceration and enforcement associated with federal marijuana laws. In addition, many marijuana businesses around the country—despite operating in compliance with state or local law—are not allowed to deduct their legitimate business expenses and often are unable to make deposits or maintain accounts as a result of federal banking laws.

It is time for Congress to end the federal prohibition on marijuana, remove it from the Controlled Substances Act, and create a tax and regulatory framework, similar to the frameworks in place for alcohol and tobacco. This represents a unique opportunity to save ruined lives, wasted enforcement and prison costs, while simultaneously helping to create a new industry, with new jobs and revenues that will improve the federal budget outlook.

### **Summary of the Legislation**

The Marijuana Tax Equity Act creates a taxation framework similar to that in place for the tobacco and alcohol industries. It imposes an excise tax of 50% on the first sale by a producer (generally the grower) to the next stage of production (generally the processor creating the useable product). Along the supply chain it requires occupational taxes for those operating marijuana businesses. Those who do not comply with the taxation laws face civil or criminal penalties similar to those in place for the tobacco industry. The bill requires the IRS to produce periodic studies of the industry and make recommendations to Congress.

It is important to note that states will remain free to make decisions about marijuana policy. Paired with Representative Polis' "*Ending the Federal Marijuana Prohibition Act*," this legislation establishes a starting point for laying out a federal regulatory and taxation framework for marijuana sales that are legal under state law.

*For more information, contact Stephanie Phillips in Rep. Blumenauer's office at (202) 225-4811.*

## **Section-by-Section**

**Section 1.** Short Title: “The Marijuana Tax Equity Act.”

**Section 2(a).** Adding “Chapter 56—Marijuana” to the Internal Revenue Code

### **Subchapter A. Producer Tax.**

Imposes a tax of 50% on the first sale of marijuana from the grower to the processor, wholesaler, or distributor. No tax is imposed for transfers between cultivators, only the initial sale down the stream of production. Packaging and containers are included in the price. For sales at less than arm’s length, among controlled groups, or under special circumstances, special rules apply to adequately calculate the price.

### **Subchapter B. Special Provisions for Marijuana Enterprises.**

Similar to the tobacco and alcohol industries, this subchapter requires producers, importers, and manufacturers to face an occupational tax of \$1,000/year and any other person engaged in the business to face an annual occupational tax of \$500. A permit, devised under such regulations as the Treasury Secretary proscribes, must be obtained prior to beginning business. For existing businesses, permits must be obtained within six months of enactment of the law.

### **Subchapter C. Penalties.**

Subject to a reasonable cause exception, civil penalties will be assessed for failure to comply with the duties imposed by these sections. Criminal penalties will be assessed for intentional efforts to defraud the taxing authorities. As in the case of tobacco taxes, penalties are also extended to purchasers with an intent to defraud the taxing authorities by purchasing or possessing marijuana sold illegally.

**Section 2(b).** Study.

This section requires the IRS to produce a study of the industry after two years, and every five years thereafter, based on the information that market participants report and to issue recommendations to Congress to continue improving the administration of the tax.